

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #7	CCRB Case #: 202000450	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/27/2019 6:47 AM	Location of Incident: Rockaway Avenue and Sumpter Street	Precinct: 73	18 Mo. SOL 1/27/2021	EO SOL 9/13/2021	
Date/Time CV Reported Mon, 11/04/2019 11:09 AM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 11/04/2019 11:09 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Girard Moscato	00663	933067	123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arnold Nickey	04112	906933	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to § 87(2)(b)	
B.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to § 87(2)(b)	

Case Summary

On November 4, 2019, IAB sent this complaint to the CCRB via IAB log number 2019-39300.

BWC was received for this case (Board Review 01 and 02). The IAB log also referenced BWC linked to what would become four other cases for the same officer. These cases are 201909593, 202000443, 202000447, and 202000452.

On July 27, 2019 at approximately 6:47 a.m., PO Girard Moscato, then of the 73rd Precinct, responded to a report of a stolen motorcycle at Rockaway Avenue and Sumpter Street in Brooklyn. When he spoke with the complainants § 87(2)(b) and § 87(2)(b) PO Moscato asked them where they are from (**Allegations A and B: Discourtesy, § 87(2)(g)**).

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Girard Moscato spoke discourteously to § 87(2)(b)

Allegation (B) Discourtesy: Police Officer Girard Moscato spoke discourteously to § 87(2)(b)

On July 27, 2019, at approximately 6:15 a.m., § 87(2)(b) had just returned home from his job. He parked his motorcycle outside of § 87(2)(b) in Brooklyn and went upstairs to get the lock. While upstairs, he received a notification on his phone that the motorcycle was moving, so he and his friend § 87(2)(b) got in their car and started following a GPS signal that is on the motorcycle to try and find the people who took the motorcycle. While in the car, § 87(2)(b) called 911, and the operator told him to return to the location to meet with the officers.

§ 87(2)(b) and § 87(2)(b) returned to the location and spoke with PO Moscato and PO Arnold Nickey. PO Moscato did most of the initial talking. As the two civilians approached him, PO Moscato warned them not to take matters into their own hands because of the dangers that exists in the area with gang activity. BWC captures PO Moscato asking § 87(2)(b) “Not to belittle you, where are you from originally?” § 87(2)(b) responded, “Jamaica.” PO Moscato then asked, “Jamaica the country?” § 87(2)(b) affirmed this. PO Moscato then asked § 87(2)(b) “Where are you from if you don’t mind me asking?” § 87(2)(b) replied, “Morocco.”

§ 87(2)(b) said in his statement that he did not understand why PO Moscato asked him where he is from (Board Review 03). In his phone statement, § 87(2)(b) did not understand why PO Moscato asked that question other than for the fact that he and § 87(2)(b) both have accents (Board Review 04). PO Moscato said in his CCRB interview that he only asked that question because the actions taken by § 87(2)(b) and § 87(2)(b) indicated that they were not aware of the dangers of pursuing criminals (Board Review 05). PO Moscato said that based on his experience growing up in New York City that he could tell these two men were not from New York City based on the actions they took.

Patrol Guide Procedure 212-66 prohibits officers from asking about civilians’ immigration status unless to further an investigation or determine eligibility for City resources (Board Review 06).

Patrol Guide Procedure 203-10 prohibits “using discourteous or disrespectful remarks regarding another person’s ethnicity” (Board Review 07).

Patrol Guide Procedure 200-02 requires officers to “render our services with courtesy and civility” (Board review 08).

§ 87(2)(g)

familiar with the dangers of the area, but Patrol Guide Procedure 212-66 only permits them to do so in order to further an investigation or determine eligibility for City resources.

Lastly, as PO Moscato had already explained the dangers of the neighborhood when he asked the two where they were from, asking the question to determine if they were familiar with the area did not serve any purpose other than to belittle § 87(2)(b) and § 87(2)(b). For these reasons, it is recommended that allegations A and B be closed as **substantiated**.

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party.
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- PO Moscato has been a member of service for 16 years and a subject officer in 10 prior CCRB complaints and 30 prior allegations, none of which were substantiated. The only pattern relevant to this investigation are the concurrent investigations into the allegations in the following case numbers: 201909593, 202000443, 202000447, and 202000452, § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the Office of Court Administration, § 87(2)(b) and § 87(2)(b) have no conviction history in New York City (Board Review 09 and 10).
- As of the date of this report, the Office of the Comptroller's Office has not identified any Notices of Claims relevant to this incident.

Squad No.: 7

Investigator:	<u>Stephen DiFiore</u>	<u>Inv. Stephen DiFiore</u>	<u>7/6/2020</u>
	Signature	Print Title & Name	Date

		Manager Vanessa Rosen	July 6, 2020
Squad Leader:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date